IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4034 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PATEL VALLABHBHAI KARASANBHAI - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR JR NANAVATI for Petitioner(s) : 1,
MR AY KOGJE, AGP for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 14/11/2006

ORAL JUDGMENT

1. The petitioner is having two expellers in the Oil Mill situated at Gondal. He was holding License bearing No. 212 for the purposes of

running the aforesaid Mill. In a search conducted by the authorities, various irregularities were found and to be candid, it was observed that he was holding Raida oil which was unaccounted for and he had groundnut oil in excess of the accounts. The learned Collector issued a notice to the petitioner to show cause and after hearing the petitioners, observed that the petitioner had committed irregularities. He found that unaccounted Raida oil was found and stock of groundnut oil was in excess of the accounts. After recording his finding, he directed confiscation of 60% of the groundnut oil. Being aggrieved by the said order, the petitioner preferred an appeal to the Deputy Secretary, who, vide his order dated 5.1.94 dismissed the appeal. Being aggrieved by the said order, the petitioner is before this Court.

2. Shri J.R. Nanavati, learned counsel for the petitioner, after taking me through the order passed by the Collector and the Deputy Secretary, submitted that the orders are contrary to the provisions of law and as the

proper opportunity of hearing was not afforded to the petitioner and as the confiscation to the extent of 60% is bad, orders deserve to be set aside.

3. Mr. A.Y.Kogje, learned AGP for the State submitted that proper opportunity was given to the petitioner, the facts wold show that the petitioner was engaged in illegal business of oil and as the confiscation to the extent of 60% was within the jurisdiction of the authorities, no interference is called for.

4. From the records, it clearly appears that after the search was effected, the petitioner was issued notice to show cause, the petitioner appeared before the Collector and submitted his reply giving details. The details submitted by the petitioner, in the opinion of the Collector, were not satisfactory and in any case, commission of illegalities was proved. The said findings recorded by the Collector have been approved by the Deputy Secretary in appeal.

5. Present is not a case of perverse appreciation of the facts. The facts floating on the surface

of the records show that the authorities had material before them to come to a positive conclusion that present petitioner did commit violation of the conditions of the License and acted in breach of the same. The procedure required to be followed was followed in accordance with law and, therefore, no wrong even with the procedure could be found.

6. So far as the confiscation of stock of 60% of oil is concerned, I do not think that this Court should make interference in the matter, specially when the first authority had exercised its discretion, which otherwise, was not illegal and the appellate authority refused to interfere with the same.

7. I find no reason for interfere. The petition is dismissed. Rule is discharged. Interim relief is vacated. No costs.

[R.S. GARG, J.]

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